

## CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

<p><b>I. (a) PLAINTIFFS</b> PATRICIA SCHWARTZ</p> <p><b>(b) County of Residence of First Listed Plaintiff</b> <u>PHILADELPHIA</u> <i>(EXCEPT IN U.S. PLAINTIFF CASES)</i></p> <p><b>(c) Attorneys (Firm Name, Address, and Telephone Number)</b> CRAIG THOR KIMMEL, KIMMEL &amp; SILVERMAN, P.C. 30 EAST BUTLER PIKE, AMBLER, PA 19002 PHONE: (215) 540-8888 EXT. 116</p>		<p><b>DEFENDANTS</b> CREDIT ONE FINANCIAL d/b/a CREDIT ONE BANK</p> <p>County of Residence of First Listed Defendant <i>(IN U.S. PLAINTIFF CASES ONLY)</i> NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.</p> <p>Attorneys <i>(If Known)</i></p>																																																																																																																																																																											
<p><b>II. BASIS OF JURISDICTION</b> <i>(Place an "X" in One Box Only)</i></p> <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%; padding: 5px;"> <input type="checkbox"/> 1 U.S. Government Plaintiff           </td> <td style="width: 50%; padding: 5px;"> <input checked="" type="checkbox"/> 3 Federal Question <i>(U.S. Government Not a Party)</i> </td> </tr> <tr> <td style="width: 50%; padding: 5px;"> <input type="checkbox"/> 2 U.S. Government Defendant           </td> <td style="width: 50%; padding: 5px;"> <input type="checkbox"/> 4 Diversity <i>(Indicate Citizenship of Parties in Item III)</i> </td> </tr> </table>		<input type="checkbox"/> 1 U.S. Government Plaintiff	<input checked="" type="checkbox"/> 3 Federal Question <i>(U.S. Government Not a Party)</i>	<input type="checkbox"/> 2 U.S. Government Defendant	<input type="checkbox"/> 4 Diversity <i>(Indicate Citizenship of Parties in Item III)</i>	<p><b>III. CITIZENSHIP OF PRINCIPAL PARTIES</b> <i>(Place an "X" in One Box for Plaintiff and One Box for Defendant)</i></p> <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%; padding: 5px;">           Citizen of This State         </td> <td style="width: 50%; padding: 5px;"> <input type="checkbox"/> PTF <input type="checkbox"/> DEF         </td> </tr> <tr> <td style="width: 50%; padding: 5px;">           Citizen of Another State         </td> <td style="width: 50%; padding: 5px;"> <input type="checkbox"/> 1 <input type="checkbox"/> 2         </td> </tr> <tr> <td style="width: 50%; padding: 5px;">           Citizen or Subject of a Foreign Country         </td> <td style="width: 50%; padding: 5px;"> <input type="checkbox"/> 3 <input type="checkbox"/> 4         </td> </tr> <tr> <td colspan="2" style="text-align: right; padding: 5px;">           Incorporated or Principal Place of Business In This State         </td> </tr> <tr> <td colspan="2" style="text-align: right; padding: 5px;">           Incorporated and Principal Place of Business In Another State         </td> </tr> <tr> <td colspan="2" style="text-align: right; padding: 5px;">           Foreign Nation         </td> </tr> </table>		Citizen of This State	<input type="checkbox"/> PTF <input type="checkbox"/> DEF	Citizen of Another State	<input type="checkbox"/> 1 <input type="checkbox"/> 2	Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3 <input type="checkbox"/> 4	Incorporated or Principal Place of Business In This State		Incorporated and Principal Place of Business In Another State		Foreign Nation																																																																																																																																																											
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# UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF PENNSYLVANIA — DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.

Address of Plaintiff: 3115 Gilham Street, Philadelphia, PA 19149

Address of Defendant: 585 Pilot Road, Las Vegas, NV 89119

Place of Accident, Incident or Transaction: \_\_\_\_\_

(Use Reverse Side For Additional Space)

Does this civil action involve a nongovernmental corporate party with any parent corporation and any publicly held corporation owning 10% or more of its stock?

(Attach two copies of the Disclosure Statement Form in accordance with Fed.R.Civ.P. 7.1(a))

Yes  No

Does this case involve multidistrict litigation possibilities?

Yes  No

*RELATED CASE, IF ANY:*

Case Number: \_\_\_\_\_ Judge: \_\_\_\_\_ Date Terminated: \_\_\_\_\_

Civil cases are deemed related when yes is answered to any of the following questions:

1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court?  
Yes  No
2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court?  
Yes  No
3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court?  
Yes  No
4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual?  
Yes  No

CIVIL: (Place  in ONE CATEGORY ONLY)

A. *Federal Question Cases:*

- Indemnity Contract, Marine Contract, and All Other Contracts
- FELA
- Jones Act-Personal Injury
- Antitrust
- Patent
- Labor-Management Relations
- Civil Rights
- Habeas Corpus
- Securities Act(s) Cases
- Social Security Review Cases

11.  All other Federal Question Cases

(Please specify) 47 U.S.C. § 227 et seq.

B. *Diversity Jurisdiction Cases:*

- Insurance Contract and Other Contracts
- Airplane Personal Injury
- Assault, Defamation
- Marine Personal Injury
- Motor Vehicle Personal Injury
- Other Personal Injury (Please specify)
- Products Liability
- Products Liability — Asbestos
- All other Diversity Cases

(Please specify) \_\_\_\_\_

## ARBITRATION CERTIFICATION

(Check Appropriate Category)

I, CRAIG THOR KIMMEL,

counsel of record do hereby certify:

Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs;

Relief other than monetary damages is sought.

DATE: 07-16-15

\_\_\_\_\_  
Attorney-at-Law

57100

\_\_\_\_\_  
Attorney I.D.#

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: 07-16-15

\_\_\_\_\_  
Attorney-at-Law

57100

\_\_\_\_\_  
Attorney I.D.#

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

**CASE MANAGEMENT TRACK DESIGNATION FORM**

PATRICIA SCHWARTZ : CIVIL ACTION  
v. :  
CREDIT ONE FINANCIAL d/b/a :  
CREDIT ONE BANK : NO.

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

**SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:**

(a) Habeas Corpus – Cases brought under 28 U.S.C. § 2241 through § 2255. ( )

(b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ( )

(c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. (x)

(d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ( )

(e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ( )

(f) Standard Management – Cases that do not fall into any one of the other tracks. ( )

07-16-15  
Date

  
Attorney-at-law

Plaintiff, Patricia Schwartz  
Attorney for

215-540-8888 x 116

877-788-2864

kimmel@creditlaw.com

Telephone

FAX Number

E-Mail Address

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UNITED STATES DISTRICT COURT  
FOR THE  
EASTERN DISTRICT OF PENNSYLVANIA

PATRICIA SCHWARTZ, )  
Plaintiff )  
Case No.: )  
v. )  
CREDIT ONE FINANCIAL d/b/a ) COMPLAINT AND DEMAND FOR  
CREDIT ONE BANK, ) JURY TRIAL  
Defendant )

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**COMPLAINT**

PATRICIA SCHWARTZ (“Plaintiff”), by and through her attorneys, KIMMEL & SILVERMAN, P.C., alleges the following against CREDIT ONE FINANCIAL d/b/a CREDIT ONE BANK (“Defendant”):

**INTRODUCTION**

1. Plaintiff’s Complaint is based on the Telephone Consumer Protection Act (“TCPA”), 47 U.S.C. § 227 *et seq.*

**JURISDICTION AND VENUE**

2. Jurisdiction of this Court arises pursuant to 28 U.S.C. § 1331. See Mims v. Arrow Fin. Services, LLC, 132 S. Ct. 740, 747, 181 L. Ed. 2d 881 (2012).

3. Defendant conducts business in the Commonwealth of Pennsylvania and as such, personal jurisdiction is established.

4. Venue is proper pursuant to 28 U.S.C. § 1391(b)(2).

## PARTIES

5. Plaintiff is a natural person residing in Philadelphia, Pennsylvania  
19149.

6. Plaintiff is a "person" as that term is defined by 47 U.S.C. § 153(39).

7. Defendant is a lender with its principal place of business located at 1000 Pilot Road, Las Vegas, Nevada 89119.

8. Defendant is a "person" as that term is defined by 47 U.S.C. §153(39).

9. Defendant acted through its agents, employees, officers, members, directors, heirs, successors, assigns, principals, trustees, sureties, subrogees, representatives, and insurers.

## FACTUAL ALLEGATIONS

10. Plaintiff has a cellular telephone number that she has had for more than one year.

11. Plaintiff has only used this number as a cellular telephone number.

12. The phone number has been assigned to a cellular telephone service for which Plaintiff incurs a charge for incoming calls.

13. Beginning on or about September 2014, and continuing through November 2014, Defendant repeatedly called Plaintiff on her cellular telephone

1           14. When contacting Plaintiff on her cellular telephone, Defendant used  
2           an automatic telephone dialing system or automatic or pre-recorded messages.  
3

4           15. Defendant's telephone calls were not made for "emergency purposes."  
5

6           16. Rather, Defendant stated, "We're calling from Credit One Bank," and  
7           asked her to hold for a live representative.  
8

9           17. Upon information and belief, Defendant was calling Plaintiff about an  
10          account belonging to her son.  
11

12          18. Initially, at or around the beginning of October 2014, Plaintiff told  
13          Defendant that her son did not live with her, to stop calling her cellular telephone,  
14          and to remove her cell phone number from its system.  
15

16          19. Defendant heard Plaintiff's revocation of consent to call her cellular  
17          telephone.  
18

19          20. However, Defendant ignored Plaintiff's revocation and continued to  
20          call Plaintiff on her cellular telephone.  
21

22          21. Most recently, Defendant called Plaintiff on November 7, 2014.  
23

24

**DEFENDANT VIOLATED THE  
TELEPHONE CONSUMER PROTECTION ACT**

25          22. Plaintiff incorporates the forgoing paragraphs as though the same were  
26          set forth at length herein.  
27

28          23. Defendant placed multiple telephone calls to Plaintiff's cellular phone.  
29

24. Defendant initiated multiple automated telephone calls to Plaintiff's cellular telephone using a prerecorded voice.

25. Defendant's calls to Plaintiff were not made for emergency purposes.

26. Defendant's calls to Plaintiff, in and after October 2014, were not made with Plaintiff's prior express consent.

27. Defendant's acts as described above were done with malicious, intentional, willful, reckless, wanton and negligent disregard for Plaintiff's rights under the law and with the purpose of harassing Plaintiff.

28. The acts and/or omissions of Defendant were done unfairly, unlawfully, intentionally, deceptively and fraudulently and absent bona fide error, lawful right, legal defense, legal justification or legal excuse.

29. As a result of the above violations of the TCPA, Plaintiff has suffered the losses and damages as set forth above entitling Plaintiff to an award of statutory, actual and trebles damages.

## PRAYER FOR RELIEF

WHEREFORE, Plaintiff, PATRICIA SCHWARTZ, respectfully prays for a judgment as follows:

a. All actual damages suffered pursuant to 47 U.S.C. § 227(b)(3)(A);

- b. Statutory damages of \$500.00 per telephone call pursuant to 47 U.S.C. § 227(b)(3)(B);
- c. Treble damages of \$1,500 per telephone call pursuant to 47 U.S.C. §227(b)(3) or alternatively that amount for all calls made after Defendant was notified that they were calling the wrong person and wrong number;
- d. Injunctive relief pursuant to 47 U.S.C. § 227(b)(3);
- e. Any other relief deemed appropriate by this Honorable Court.

## DEMAND FOR JURY TRIAL

PLEASE TAKE NOTICE that Plaintiff, PATRICIA SCHWARTZ, demands a jury trial in this case.

RESPECTFULLY SUBMITTED,

KIMMEL & SILVERMAN, P.C.

By: 

CRAIG THOR KIMMEL

Attorney ID # 57100

Kimmel & Silver

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Ambler, PA 19002

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Email: [kimmel@creditlaw.com](mailto:kimmel@creditlaw.com)